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State of Utah

DEPARTMENT OF NATURAL RESOURCES

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Executive Director

Division of Oil, Gas and Mining

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Division Director

Outgoing
C0070045
#3719
OK

December 29, 2010

Gina Rau, Environmental Manager
Headwaters, Incorporated
10653 South River Front Parkway, Suite 300
South Jordan, Utah 84095

Subject: Commencement of Midterm Review, Task ID #3719, Headwaters, Inc., COVOL Coal Processing Plant, Permit C/007/0045

Dear Ms. Rau:

The Division is required to review each active permit during its term, in accordance with R645-303-211. This review is to take place not later than the midpoint of the permit term, which is February 28, 2011 for the COVOL Coal Processing Plant at Wellington, Utah. The Midterm Review for the COVOL Plant is now being conducted and the items being reviewed are the following:

- A. Review of the Plan to ensure that the requirements of all permit condition, division orders, notice of violation (NOV), abatement plans, and permittee-initiated Plan changes approved subsequent to permit approval or renewal (whichever is the most recent) are appropriately incorporated into the Plan document.
- B. Ensure that the Plan has been updated to reflect changes in the Utah Coal Regulatory Program which have occurred subsequent to permit approval or renewal.
- C. Review applicable portions of the permit to ensure that the Plan contains commitments for application of the best technology currently available (BTCA) to prevent additional contributions of suspended solids to stream flows outside of the permit area.
- D. Evaluate the compliance status of the permit to ensure that all unabated enforcement actions comport with current regulations for abatement; verify the status of all finalized penalties levied subsequent to permit issuance or permit renewal, and verify that there are no demonstrated patterns of violation (POV). This will include an AVS check to ensure that Ownership and Control information is current and correct.



E. Evaluate the reclamation bond to ensure that coverage adequately addresses permit changes approved subsequent to permit approval or renewal, and to ensure that the bond amount is appropriately escalated in current-year dollars.

F. Evaluate the permit for compliance with variances or special permit conditions.

G. Optional for active mines, mandatory for reclamation only sites: conduct a technical site visit in conjunction with the assigned compliance inspector to document the status and effectiveness for operational, reclamation, and contemporaneous reclamation practices undertaken on predetermined portions of the disturbed area to minimize, to the extent practicable, the contribution of acid or toxic materials to surface or groundwater, and to otherwise prevent water pollution.

Once the Division has completed the Review, you will be notified of any outstanding issues that need to be corrected.

If you have any questions regarding these requirements or the Midterm Review process, please don't hesitate to call me at 801-538-5262.

Sincerely,

A handwritten signature in black ink, appearing to read 'JDS', with a horizontal line extending to the left.

James D. Smith
Permit Supervisor